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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,043	08/29/2001	Todd L. Rose	DAKTRONICS	8467

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EXAMINER

GREEN, BRIAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

<b>Office Action Summary</b>	<b>Application No.</b> 09/943,043	<b>Applicant(s)</b> ROSE, TODD L.	
	<b>Examiner</b> Brian K. Green	<b>Art Unit</b> 3611	

-- Th MAILING DATE of this communication appears on th cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                 | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: ____                                     |

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the upper rear panel defined in claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3, it is not clear whether the structural edge is the same as the edge of a structural member defined in line 1. In claim 1, line 4, it is not clear whether the electronic sign is the same as the electronic sign defined in line 2. In claim 1, lines 6-7 are indefinite since it doesn't appear that the sign includes an upper rear panel. It appears that the access panel forms part of the rear panel but the access panel is not "on" an upper rear panel. In claim 2, line 2, there is no antecedent basis for "the edge". In claim 2, line 4, it is not clear whether the edge of a deck is the same as the deck edge defined in line 2. In claim 2, line 5, it is not clear whether the rail is the same as the rail defined in line 1. In claim 2, lines 5-9 are confusing since it is not clear what

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element the rail is attached to and what elements are secured to the metal mounting plates. In claim 2, line 9, there is no antecedent basis for "the upper and lower surfaces". In claim 2, line 10, "said edge of the seating deck" is confusing since the applicant defines on line 2, an edge of a seating deck and on line 4 an edge of a deck. The applicant appears to be calling the same edge multiple names.

Regarding claim 1, the word "means" is preceded by the word(s) "rail" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Trame (U.S. Patent No. 4,970,816).

As broadly defined, Trame shows in figures 1-5 a structural edge (59), a sign (10,25,29,67), upper and lower brackets (58, 64 and 67), lower panel (63), an access panel (75) on an upper panel (41), and a rail means (20).

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Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Hunte (U.S. Patent No. 4,937,499).

As broadly defined, Hunte shows in figure 4 an edge (the edge around the hole formed in the "deck"), a sign (10), upper and lower brackets (138,140), metal mounting plates (134,136), and a "rail" (112e).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Loy, Ghany et al., Conway et al., and Henke et al. teach the use of signs mounted to the edge of a structure. Beierwaltes et al. teaches the use of a sign that is attached to a structure with brackets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703)308-1011. The examiner can normally be reached on M-F 7-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

*Brian K. Green*  
BRIAN K. GREEN  
PRIMARY EXAMINER

bkg  
October 17, 2002